

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELVIN ALEXANDER LORENZO DUARTE,	:	
	:	
Plaintiff,	:	
	:	22 Civ. 1775 (KMK)(JCM)
-against-	:	
	:	
EMPIRE BAGELS, INC., EMPIRE BAGELS	:	
BREWSTER INC., EMPIRE BAGELS CARMEL	:	PLAINTIFFS' NOTICE OF
INC., EMPIRE BAGELS CROSS RIVER INC.,	:	ACCEPTANCE OF OFFER OF
EMPIRE BAGELS FISHKILL INC., EMPIRE	:	JUDGMENT
BAGELS HARRISON INC., and JAY D'ANGELO,	:	
	:	
Defendants.	:	
-----X	:	

Pursuant to Rule 68 of the Federal Rules of Civil Procedure ("Rule 68"), Plaintiffs Melvin Alexander Lorenzo Duarte and Esteban Rover Andre Muñoz Palma accept the offer of judgment of Defendants Empire Bagels Brewster Inc., Empire Bagels Carmel Inc., Empire Bagels Cross River Inc., Empire Bagels Fishkill Inc., Empire Bagels Harrison Inc., and Jay D'Angelo dated December 22, 2022, a copy of which is attached as Exhibit A.

Dated: New York, New York
December 27, 2022

PECHMAN LAW GROUP PLLC

By: 

Louis Pechman
Gianfranco J. Cuadra
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Attorneys for Plaintiffs

TO: Joshua Androphy, Esq.
Morrison & Tenenbaum PLLC
488 Madison Avenue, 17th Floor
New York, New York 10022

Tel.: (212) 620-0938
jandrophy@m-t-law.com
Attorneys for Defendants

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELVIN ALEXANDER LORENZO DUARTE,

Plaintiff,

-against-

EMPIRE BAGELS, INC., EMPIRE BAGELS BREWSTER
INC., EMPIRE BAGELS CARMEL INC., EMPIRE
BAGELS CROSS RIVER INC., EMPIRE BAGELS
FISHKILL INC., EMPIRE BAGELS HARRISON INC.,
and JAY D'ANGELO,

Defendants.
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: 22 Civ. 1775 (KMK)(JCM)
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: OFFER OF JUDGMENT

Pursuant to Rule 68 of the Federal Rules of Civil Procedure ("Rule 68"), defendants Empire Bagels, Inc., Empire Bagels Brewster Inc., Empire Bagels Carmel Inc., Empire Bagels Cross River Inc., Empire Bagels Fishkill Inc., Empire Bagels Harrison Inc., and Jay D'Angelo (collectively, "Defendants"), by their attorneys Morrison Tenenbaum PLLC, hereby offer to allow judgment in this action to be taken against them, jointly and severally, in favor of Plaintiffs Melvin Alexander Lorenzo Duarte and Esteban Rover Andre Muñoz Palma (collectively, "Plaintiffs") in the sum of \$70,000.00, inclusive of all damages, attorneys' fees, expenses, and costs accrued to date or permitted or authorized under any federal, state, and/or local statute or common law. The Judgment shall be the sole judgment in the matter, and in full and final resolution of all of Plaintiffs' claims against Defendants and Ludin Ramos, as is further explained below.

Defendants shall not make any other or further payments to Plaintiffs or to their attorneys than as stated herein. Plaintiffs shall not be deemed nor considered a prevailing party. Defendants shall pay \$70,000.00 to Plaintiffs within five (5) calendar days of the entry of this judgment and the dismissal of Plaintiff Melvin Alexander Lorenzo Duarte's discrimination action against Empire Bagels Carmel Inc., Jay D'Angelo, and Ludin Ramos, *Duarte v. D'Angelo*, No. 10216706, before the New York State Division of Human Rights (the "Discrimination Action").

This Offer of Judgment is made for the purposes specified in Rule 68, and neither this Offer of Judgment nor any judgment that may result from it can be construed as an admission of liability on the part of Defendants, Ludin Ramos, or that Plaintiffs have suffered any damages.

Acceptance of this Offer of Judgment will act to release and discharge Defendants and Ludin Ramos, including all of their respective agents, employees, officers, directors, shareholders, owners, affiliates, predecessors, contractors, successors, insurers, reinsurers, parents, and subsidiaries, from any and all civil actions, causes of action, suits, liabilities, claims, losses, issues, and demands whatsoever, to the maximum extent permitted by law, which have accrued at any time from the beginning of time through the date of this Offer of Judgment, including but not limited to all civil claims, any claims that were or could have been alleged by or on behalf of Plaintiffs in this action and the Discrimination Action, claims under the New York Labor Law (and its

implementing regulations), the Fair Labor Standards Act (and its implementing regulations), any claims arising out of Plaintiffs' employment or engagement, any written or unwritten policy or practice applicable during such employment or engagement, or the resignation or termination therefrom, any claims for breach of contract and any other common law contract and tort claims, any claims for damages or personal injury, any claims for unpaid wages, bonuses, commissions, overtime, spread of hours, call-in pay, wage supplements, paid time off, severance pay, expense reimbursements, or other compensation, and any claims for attorneys' fees, costs, disbursements, or other expenses.

By this Offer of Judgment, Defendants forever release and discharge Plaintiffs to the maximum extent permitted by law from any and all civil actions, causes of action, suits, liabilities, claims, losses, issues, and demands whatsoever that have accrued at any time from the beginning of time through the date of this Offer of Judgment, including but not limited to Defendants' counterclaims against Plaintiff Melvin Alexander Lorenzo Duarte alleged in this Action, claims related to or arising out of Plaintiffs' employment with Defendants, and all other claims of any type or nature.

Pursuant to Rule 68, this Offer of Judgment shall be deemed withdrawn unless Plaintiffs serve written notice of their acceptance within fourteen (14) days of the date on which this Offer of Judgment was served.

Any evidence of this Offer of Judgment shall be inadmissible except in any proceeding to enforce its terms.

Dated: New York, New York
December 22, 2022

MORRISON TENENBAUM PLLC

By: 

Joshua Androphy
87 Walker Street, Floor 2
New York, New York 10013
Tel.: (212) 620-0938
jandrophy@m-t-law.com
Attorneys for Defendants

To: Louis Pechman, Esq.
Gianfranco J. Cuadra, Esq.
Pechman Law Group PLLC
488 Madison Avenue, 17th Floor
New York, New York 10022
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELVIN ALEXANDER LORENZO DUARTE,

Plaintiff,

-against-

EMPIRE BAGELS, INC., EMPIRE BAGELS
BREWSTER INC., EMPIRE BAGELS CARMEL
INC., EMPIRE BAGELS CROSS RIVER INC.,
EMPIRE BAGELS FISHKILL INC., EMPIRE
BAGELS HARRISON INC., and JAY D'ANGELO,

Defendants.

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22 Civ. 1775 (KMK)(JCM)

CERTIFICATE OF SERVICE

Joshua S. Androphy an attorney admitted to practice before the courts of the State of New York and the Southern District of New York, declares that on December 22, 2022 I served the accompanying Offer of Judgment upon the designated attorneys for Plaintiff by email to the following:

Louis Pechman, Esq.
Gianfranco J. Cuadra, Esq.
Pechman Law Group PLLC
488 Madison Avenue, 17th Floor
New York, New York 10022
pechman@pechmanlaw.com
Cuadra@pechmanlaw.com
Attorneys for Plaintiffs

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: New York, New York

December 22, 2022

MORRISON TENENBAUM PLLC

By: 

Joshua Androphy
87 Walker Street, Floor 2
New York, New York 10013
Tel.: (212) 620-0938
jandrophy@m-t-law.com
Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MELVIN ALEXANDER LORENZO DUARTE,

Plaintiff,

-against-

EMPIRE BAGELS, INC., EMPIRE BAGELS
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EMPIRE BAGELS FISHKILL INC., EMPIRE
BAGELS HARRISON INC., and JAY D'ANGELO,

Defendants.
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: AFFIDAVIT OF SERVICE
: OF PLAINTIFFS'
: ACCEPTANCE OF OFFER
: OF JUDGMENT
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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

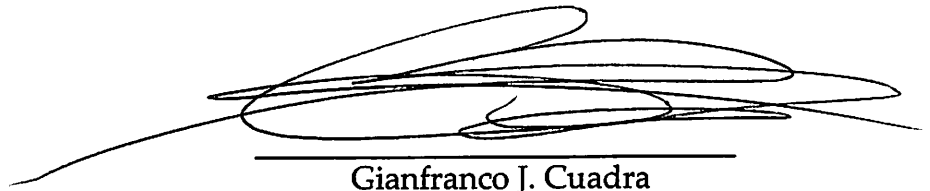
Gianfranco J. Cuadra, an attorney admitted to practice before the courts of the State of New York and the Southern District of New York, being duly sworn, deposes and says:

I am over 18 years of age, reside in Kings County, New York, and am not a party to this action.

On December 27, 2022, I served Plaintiffs' Acceptance of the Rule 68 Offer of Judgment in the above-referenced matter by email and ECF to the following designated attorney for Defendants who is authorized to accept service on their behalf:

Joshua Androphy
Morrison + Tenenbaum PLLC
87 Walker Street, Floor 2
New York, New York 10013

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.



Gianfranco J. Cuadra